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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,466	06/26/2003	Sumedh N. Barde	MS1-1543US	3501
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LEE & HAYES PLLC 601 W Riverside Avenue Suite 1400 SPOKANE, WA 99201			EXAMINER MACILWINEN, JOHN MOORE JAIN	
			ART UNIT 2442	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/606,466	Applicant(s) BARDE ET AL.	
	Examiner John M. MacIwinen	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-7,9,12,27,28,31-33 and 44-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,9,12,27,28,31-33 and 44-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/2/2008, 6/26/2008, 4/22/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pgs. 29 - 35, filed 6/26/2008, with respect to the rejection(s) of claim(s) 1, 5-6, 11-12, 27-28, 31-32 and 44-45 have been fully considered, and when taken as a whole are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Forecast et al. (US 6,096,481 B1) as well as Gulbransen (Special Edition Using XML, Second Edition). Said rejections are described in further detail below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-7, 9, 12, 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gulbransen (Special Edition Using XML, Second Edition) in view of Chon (PTO 07-2390, Korean Laid-open Patent No. 2002-0069272), further in view of Servan-Schreiber et al. (US 6,892,354 B1), hereafter Servan.

4. Regarding claim 1, Gulbransen shows a processor-readable medium, having processor executable instructions embodied thereon, that, when executed by a process, perform a method comprising receiving an indication at a client device of a user selected video content, the video content being linked to a stitched-reference play-list,

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where the stitched-reference play-list refers to a single play-list file configured to provide instructions in order to implement quick display of at least two references contents and transitions between the at least two referenced contents (pgs. 1 - 2, 5, 7)

responsive to the indication, receiving a static image from a content provider (pgs. 5, 7)

displaying the static image for at least a fixed duration (pg. 5)

and buffering the video content during the displaying (pg. 5).

Gulbransen does not show wherein the static image is a first video frame representing an introductory section of the video content selected by the user, the first video frame being extracted out by the content provider as a formatted image file; and

wherein the static image is displayed beyond the fixed duration in an event the buffering is not complete when the fixed duration expires.

Chon shows wherein the static image is a first video frame representing an introductory section of the video content selected by the user (Fig. 1, pg. 5 lines 5 - 10 and pg. 7 lines 15 - 20), the first video frame being extracted out by the content provider as a formatted image file (pg. 5 line 34 - pg. 6 line 15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Gulbransen with that of Chon in order to increase the effect of the displayed information (Chon, pg. 5, lines 1 - 2).

Gulbransen in view of Chon do not show wherein the static image is displayed beyond the fixed duration in an event the buffering is not complete when the fixed duration expires.

Servan shows wherein the static image is displayed beyond the fixed duration in an event the buffering is not complete when the fixed duration expires (col. 3 lines 21 – 34).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Gulbransen in view of Chon with that of Servan in order to ensure that the content is sufficiently buffered if the duration is insufficient for sufficient buffering.

5. Regarding claim 5, Gulbransen in view of Chon and Servan further show in an event the buffering is complete when the fixed duration expires, ceasing the display of the static image and playing the video content (Chon, pg. 6 lines 8 – 23).

6. Regarding claim 6, Gulbransen in view of Chon and Servan further show wherein the static image is a plurality of static images comprising an animated image and the displaying comprises displaying the animated image (Gulbransen, pgs. 1 and 5).

7. Regarding claim 7, Gulbransen in view of Chon and Servan further show wherein the static image is a file in a file formation selected the group comprising a JPEG, a GIF and a PNG (Gulbransen, pg. 7).

8. Regarding claim 9, Gulbransen in view of Chon and Servan further show implementing a play-list including a duration command and defining the fixed duration by the duration command (Gulbransen, pgs. 2, 5 and 7).

9. Regarding claim 12, Gulbransen in view of Chon and Servan further show a media playing device comprising the processor-readable medium recited in claim 1 (Chon, Fig. 1).

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10. Regarding claim 44, Gulbransen in view of Chon and Servan further show implementing a stitched-reference play-list referring to a single play-list file including a reference to the static image and a reference to the video content stored on the content provider, and requesting the static image and the video content from the content provider based on the references (Gulbransen, pg. 5).

11. Regarding claim 46, Gulbransen in view of Chon and Servan further show a processor-readable medium having processor executable instructions embodied thereon, that, when executed by a process, perform a method comprising receiving an indication at a client device of a user selecting a video content, the video content being linked to a stitched-reference play-list, wherein the stitched-reference play-list refers to a single play-list file configured to provide instructions in order to implement quick display of at least two referenced contents and transitions between the at least two referenced contents (Gulbransen, pgs. 1 - 2, 5, 7);

responsive to the indication, request a static image from a content provider;
receiving the static image from the content provider providing a video clip referenced by the stitched-reference play-list (Gulbransen, pgs. 5 and 7), wherein the static image is a first video frame representing an introductory section to the video clip, the introductory section comprising a plurality of frames each displaying similar motionless content, the first video frame being extracted from the video clip by the content provider as a formatted image file (Chon, pg. 5 lines 5 - 10, pg. 7 lines 15 - 20, pg. 5 line 34 - pg. 6 line 15);

displaying the static image for, at least, a fixed duration, by executing a duration

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command and a ShowWhileBuffering command implemented by the stitched-reference play-list (Gulbransen, pg. 5); and

buffering video content from the content provider during the displaying, wherein the buffering video content from the content provider implements the stitched-reference play-list including a reference to the video content (Gulbransen, pg. 5),

wherein the static image is displayed beyond the fixed duration in an event the buffering is not complete when the fixed duration expires (Servan-Schreiber, pg. 3 lines 21 - 34).

12. Claims 27, 28, 31, 32, 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gulbransen (Special Edition Using XML, Second Edition) in view of Servan, further in view of Forecast et al. (US 7,096,481 B1), hereafter Forecast.

13. Regarding claim 27, Gulbransen shows a method comprising playing back first video content of a first video clip;

during the playing back, buffering second video content of a second video clip received from a content provider (Gulbransen, pgs. 5 and 7)

and displaying a static image for a fixed duration while buffering the second content (pg. 5).

Gulbransen does not show displaying the last frame of the first video clip as a static image for a fixed duration while buffering the second content, wherein, in an event the second video content is not yet fully buffered at the expiration of the fixed duration, then the displaying of the static image continues until the second video content is fully buffered.

Servan shows in an event the video content is not yet fully buffered at the expiration of the fixed duration, then the displaying of the static image continues until the video content is fully buffered.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Gulbransen in view of Forecast with that of Servan in order to ensure that the content is sufficiently buffered if the duration is insufficient for sufficient buffering.

Gulbransen in view of Servan do not show displaying the last frame of the first video clip as a static image for a fixed duration while buffering the second content.

Forecast shows displaying the last frame of the first video clip as a static image for a fixed duration while buffering the second content (col. 8 lines 50 – 55, col. 14 lines 40 – 65, col. 15 line 60 – col. 16 line 45, col. 20 lines 33 – 67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Gulbransen in view of Servan with that of Forecast in order to show a pertinent static image to the viewer, as well as to ensure the buffering of the second video content is handled properly.

14. Regarding claim 28, Gulbransen in view of Servan and Forecast further show when the video content is fully buffered, ceasing the displaying of the static image, and playing the video content (Forecast, col. 15 lines 60 - 65).

15. Regarding claim 31, Gulbransen in view of Servan and Forecast further show in an event the video content is fully buffered when the fixed duration expires: ceasing the

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displaying of the static image and playing the video content (Servan, col. 3 lines 21 – 34).

16. Regarding claim 32, Gulbransen in view of Servan and Forecast further show wherein the static image is a plurality of static images comprising an animated image and the displaying comprises displaying the animated image (Gulbransen, pgs. 5 and 7).

17. Regarding claim 33, Gulbransen in view of Servan and Forecast further show wherein the static image is a file format selected from the group comprising JPEG, GIF, and PNG (Gulbransen, pg. 7).

18. Regarding claim 45, Gulbransen in view of Servan and Forecast further show implementing a stitched-reference play-list referring to a single play-list file including a reference to both the first a second video content stored on the provider (Gulbransen, pg. 5).

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. MacIlwinen whose telephone number is (571) 272-9686. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/
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